

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Serge RESTLÉ et al.) Group Art Unit: 1617
)
Application No.: 09/360,521) Examiner: WANG, Shengjun
)
Filed: July 23, 1999)
)
For: AMINATED SILICONE) Confirmation No.: 4299
) DETERGENT COSMETIC
) COMPOSITION AND USE
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Via EFS

Sir:

**NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM
ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION**

As required by 65 FED. REG. 56387 (September 18, 2000), Applicants notify the Patent and Trademark Office (PTO) of a possible error in the patent term adjustment. Applicants confirm receipt of the Notice of Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) dated November 6, 2008.

The Notice indicates that the PTO has determined that the patent term adjustment period for this application is 550 days. Applicants respectfully request that the PTO review the calculation for Patent Term Adjustment in this case.

Applicants point out that the time period between filing the Appeal Brief on May 24, 2006, which contained an inadvertent omission, as defined in 37 C.F.R. § 1.135(c), and the day the final Appeal Brief correcting the omission was filed, October 27, 2006, is 156 days, according to 37 C.F.R. § 1.704(c)(7). Thus, based on Applicants'

calculation, the period of adjustment of patent term due to Applicant delay should be 484 days, rather than 328 days as the PTO calculated.

In addition, the Decision on Appeal was mailed June 19, 2008, but the Notice of Allowance was not mailed until November 6, 2008, 18 days after the four-month date from the Decision on Appeal, October 19, 2008. See 37 C.F.R. § 1.702(a)(3). Thus, based on Applicants' calculation, the period of adjustment of patent term due to examination delay should be 896 days, rather than 878 days as the PTO calculated.


Accordingly, at this stage of prosecution, Applicants respectfully submit that there may be grounds for a patent term adjustment of 412 days.

Please charge any necessary fees required to enter this paper to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 3, 2008

By: 
Kimberly D. Smith
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